

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

PREAMBLE

1. Sections Affected

R4-38-101
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Rulemaking Action

Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section
Amend
Repeal
Amend
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Amend
Amend
Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 32-2904(B)(1)

Implementing statutes: A.R.S. §§ 32-2901, 32-2911, 32-2912, 32-2913, 32-2914, 32-2915, 32-2916, 32-2932, 32-2933, and 32-2935

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 1086, March 24, 2000

Notice of Rulemaking Docket Opening: 7 A.A.R. 1203, March 9, 2001

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4. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Chris Springer
Executive Director

Address: 1400 West Washington, Room 230
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

5. An explanation of the rule, including the agency's reason for initiating the rule:

- R4-38-101. Defines terms used in the chapter.
- R4-38-102. Establishes guidelines for acceptance of applicants who have not graduated from an approved school of medicine. (Replaces R4-38-102)
- R4-38-103. Describes the manner and content of postgraduate studies in homeopathic practice for which an applicant seeks approval. (Replaces R4-38-102)
- R4-38-104. Establishes guidelines for approval of preceptorship in lieu of formal training. (Replaces R4-38-103)
- R4-38-105. Establishes fees to provide revenue for the Board's activities. (Replaces R4-38-104)
- R4-38-106. Prescribes general guidelines for examinations. (Replaces R4-38-105 and 106)
- R4-38-107. Defines the criteria for granting of waivers from the written examination. (Replaces R4-38-107)
- R4-38-108. Requires that licensees help the Board maintain a roster of its homeopathic physicians. (Replaces R4-38-108)
- R4-38-109. Establishes criteria for experimental forms of diagnosis or treatment. (Replaces R4-38-109)
- R4-38-110. Reserved. (Definition repealed, moved to R4-38-101)
- R4-38-111. Establishes guidelines for the initiation of peer review committees for examination of experimental forms of diagnosis or treatment and the guidelines for conducting a review.
- R4-38-112. Establishes the procedure for registering compliance of use of experimental forms of diagnosis and treatment.
- R4-38-113. Establishes guidelines specifically for the practice of chelation therapy, including record keeping, patient follow-up, and peer review requirements.
- R4-38-114. Outlines the procedure and criteria for requesting a rehearing or review of a board decision.
- R4-38-115. Clarifies the proper use of abbreviations for educational background and Arizona medical practice licensure by homeopathic physicians.

6. A reference to any study that the agency proposed to rely on in its evaluation or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

R4-38-103 should have a medium impact by increasing revenue to the Board and the General Fund. It should not impact the consumer financially but could provide additional competition among homeopathic physicians. R4-38-105 may have a medium impact if the fees as shown here change. The fees stated are those that the Board currently imposes. The remainder of the proposed rules primarily updates legal changes, corrects grammar, and changes or eliminates inappropriate and redundant language.

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9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Chris Springer
Executive Director

Address: 1400 West Washington, Room 230
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: May 8, 2001

Time: 1:00 p.m.

Location: 1400 West Washington
Basement Conference Room, B-1
Phoenix, Arizona, 85007

Subject: Public Proceeding

A person may submit written comments regarding the proposed rules by submitting the comments no later than 5:00 p.m., May 8, 2001, to the following person:

Name: Chris Springer
Executive Director

Address: 1400 West Washington, Room 230
Phoenix, Arizona 85007

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 38. BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

ARTICLE 1. GENERAL

~~R4-38-101. Standards for Applicants Not Holding Degrees from a College or University Approved by the Board~~ Repealed

~~R4-38-101. Definitions~~

~~R4-38-102. Standards for Approval of Postgraduate Courses and Homeopathic Educational Institutions~~ Repealed

~~R4-38-102. Additional Requirements for Applicants Graduated from an Unapproved School of Medicine~~

~~R4-38-103. Standards for Approval of Internships and Preceptorships~~ Repealed

~~R4-38-103. Approval of Postgraduate Courses~~

~~R4-38-104. Fees~~ Repealed

~~R4-38-104. Approval of Preceptorships~~

~~R4-38-105. Procedure for Conducting Licensing Examinations and Setting the Passing Grade~~ Repealed

~~R4-38-105. Fees~~

~~R4-38-106. Procedure for Conduct of Personal Interview~~ Repealed

~~R4-38-106. Examinations~~

~~R4-38-107. Waiver of Examination~~ Repealed

~~R4-38-107. Waiver of Written Examination~~

~~R4-38-108. Notification of Address~~ Repealed

~~R4-38-108. Notification of Address Changes~~

R4-38-109. Experimental Forms of Diagnosis and Treatment

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- R4-38-110. ~~Generally Accepted Experimental Criteria~~ Repealed
- R4-38-111. Peer Review
- R4-38-112. ~~Procedure for Registering Compliance of Use of Experimental Forms of Diagnosis and Treatment~~
- R4-38-113. ~~Protocol for Chelation Therapy~~ Practice Requirements
- R4-38-114. Rehearing or Review of Decision
- R4-38-115. Use of Title and Abbreviation

ARTICLE 1. GENERAL

R4-38-101. Standards for Applicants Not Holding Degrees from a College or University Approved by the Board Repealed

- ~~A. "Approved school of medicine" means any school or college operating a course of study which upon successful completion results in a Degree of Doctor of Medicine or a Doctor of Osteopathy and whose course of study has been approved or accredited by the American Institute of Homeopathy, the Association of American Medical Colleges, the Association of Canadian Medical Colleges, the American Medical Association, or the American Osteopathic Association.~~
- ~~B. An applicant who has graduated from an unapproved school of medicine shall meet the following requirements:~~
 - ~~1. Be a holder of a standard certificate issued by the Educational Council for Foreign Medical Graduates, or~~
 - ~~2. Successfully complete an approved Fifth Pathway Program of twelve months supervised clinical training under the direction of an approved school of medicine in the United States in addition to documentation granted by a foreign school of medicine signifying completion of all of the formal requirements for graduation from such foreign medical school except internship or social service training or both.~~

R4-38-101. Definitions

In addition to the definitions at A.R.S. § 32-2901 in this Chapter:

- 1. "Beneficial clinical usage of therapy modalities" means that usage results are documented by:
 - a. National or international clinical reports of therapeutic results;
 - b. Professionally recognized publications of clinical indications and contraindications;
 - c. Organized national or international instructional courses offered in the use of the modality or treatment; or
 - d. Presentation of physicians' experience with the therapy at local, county, state, national or international professional meetings.
- 2. "Generally accepted experimental criteria in homeopathy" means:
 - a. A protocol in which the treating modality is administered in the smallest amount necessary to stimulate a healing response with a minimum of clinical aggravation or side effects;
 - b. Records for documentation of clinical efficacy that reflect measurement of symptom improvement, laboratory testing, and improvement in parameters of physiologic functioning; or
 - c. Innovative diagnostic procedures and devices are to be analyzed and evaluated according to their ability to assist the physician in assessing the degree of disturbance in the totality of the patient's presenting signs, symptoms and physiologic responses. The procedures and devices are also evaluated according to their ability to predict or monitor the totality of responses to a given therapeutic intervention or program.
- 3. "Metal poisoning" is defined as that level of toxic metals present in any patient which in the professional judgment of the licensee is inconsistent with assisting the patient in achieving their optimal health goal.

R4-38-102. Standards for Approval of Postgraduate Courses and Homeopathic Educational Institutions Repealed

- ~~A. Applicants for licensure who submit a diploma of Doctor of Medicine in Homeopathy issued by a homeopathic college or other educational institution shall submit a certified statement of their course work and content if their institution has not been previously approved by the Board or accredited for this course of study by an educational or professional association recognized by the Board including the Association of American Medical Colleges, the Association of Canadian Medical Colleges, or the American Institute of Homeopathy.~~
- ~~B. An applicant shall submit certificate of attendance and completion of post graduate courses and a summary of such work, as required by this Section, on the application form supplied by the Board.~~
- ~~C. Attendance at a course of homeopathic post graduate medical education consisting of 90 hours or more of formal training in homeopathy offered by an institution approved by the Board or the American Institute of Homeopathy will satisfy the post graduate course requirements for applicants.~~
- ~~D. Course work not previously approved by the Board will be evaluated upon submission by applicant according to the course content, which includes case-taking, repertory use, materia medica, homeopathic philosophy and history, acute remedies, constitutional prescribing,~~

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- ~~E. An applicant whose previous homeopathic practice as defined in A.R.S. Section 32-2901.A.4. has been devoted 50% or more to complementary modalities other than the classical homeopathy of micro-dose substances prescribed by the law of similars, shall submit evidence of a combined total of three hundred hours of post graduate training in one or more of these modalities including a minimum of 40 hours of formal training in an approved course in classical homeopathy. These modalities as defined in A.R.S. Section 32-2901 include acupuncture, neuromuscular integration, orthomolecular therapy, nutrition or chelation therapy.~~
- ~~F. Applicants who have submitted a preceptorship in Homeopathic Medicine may submit documentation of such preceptorship for consideration by the Board according to the criteria in Subsection B. above as an approved course of post graduate training. A preceptorship is an extended period of individual study with one or more experienced homeopathic physicians or institutions.~~

R4-38-102. Additional Requirements for Applicants Graduated from an Unapproved School of Medicine

In addition to the basic requirements for license prescribed in A.R.S. § 32-2912, any applicant who has not graduated from an approved school of medicine shall meet the following requirements:

1. Hold a standard certificate issued by the Educational Council for Foreign Medical Graduates; or
2. Complete a Fifth Pathway program of one academic year of supervised clinical training under the direction of an approved school of medicine in the United States and successfully complete an approved twenty-four month internship, residency or clinical fellowship program upon completion of the fifth pathway program; or
3. Complete 36 months as a full-time assistant professor or in a higher position in an approved school of medicine; or
4. Complete 36 months of approved hospital internship, residency or a clinical fellowship program.

R4-38-103. Standards for approval in internships and preceptorships Repealed

- ~~A. An "approved internship" means that the applicant has completed training in a hospital which was approved for internship, fellowship or residency training by the Council on Medical Education in Hospitals of the American Medical Association, the Association of American Medical Colleges, the Royal College of Physicians and Surgeons of Canada, the American Osteopathic Association or any similar body in the United States or Canada whose function is that of approving hospitals for internship, fellowship or residency training.~~
- ~~B. Completion of a preceptorship may not substitute for completion of an approved internship, residency or fellowship program.~~

R4-38-103. Approval of Postgraduate Courses

- A. An applicant for a license as a homeopathic physician shall submit with the application the appropriate documentation indicated below for the postgraduate education claimed on the application:**
1. A certified statement of course work and its content if the institution has not been approved by the Board or accredited for this course of study by an educational or professional association recognized by the Board including the Association of American Medical Colleges, the Association of Canadian Medical Colleges, or the American Institute of Homeopathy; and
 2. A certificate of attendance and successful completion, and a written summary of each course completed.
- B. The following postgraduate courses are approved and may be applied to meet the course requirements for license as a homeopathic physician:**
1. Acupuncture:
 - a. Classical Acupuncture:
 - i. Certification by the National Commission for the Certification of Acupuncturists (NCCA); or
 - ii. 220 hours of post-graduate courses accredited by a nationally recognized certifying authority approved by the Board; or
 - iii. Documentation of a minimum of 3 or more years of clinical utilization comprising a minimum of 50 percent of the applicant's practice.
 - b. Electro-diagnosis:
 - i. Completion of at least 50 hours of training in Board-approved courses in electro-diagnosis; or
 - ii. Documentation of a minimum of 3 or more years of clinical experience as verified to by 3 letters of recommendation submitted with the application.
 2. Chelation Therapy:
 - a. Completion of a course offered or accredited by the American Board of Chelation Therapy or other nationally recognized certifying authority, or other experience approved by the Board.
 - b. If chelation therapy will be used, a copy of the chelation protocol to be used and the proposed patient consent forms shall be submitted for approval by the board.
 3. Classical Homeopathy:
 - a. Completion of at least 90 hours of formal training in classical homeopathy approved by the Board, the Council on Homeopathic Education (CHE), the American Institute of Homeopathy, the American Board of Homeotherapeutics (ABHT) or the Homeopathic Association of Naturopathic Physicians (HANP);

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- b. Documentation of a minimum of 3 or more years of clinical utilization and comprising a minimum of 50 percent of the applicant's practice.
 4. Complex Homeopathy and electro therapeutics (EAV and related):
 - a. Completion of 90 hours of formal training in complex homeopathy approved by the Board, the Council on Homeopathic Education (CHE), the American Institute of Homeopathy, the American Board of Homeotherapeutics (ABHT), the Homeopathic Association of Naturopathic Physicians (HANP) or the Council for Homeopathic Certification (CHC); or
 - b. Documentation of a minimum of 3 or more years of clinical utilization and comprising a minimum of 50 percent of the applicant's practice.
 5. Neuromuscular Integration:
 - a. Completion of a residency or fellowship in physical medicine, or osteopathic medical school;
 - b. Completion of at least 220 hours of training in neuromuscular integration therapies approved by the Board; or
 - c. Documentation of a minimum of 3 or more years of clinical utilization and comprising a minimum of 50 percent of the applicant's practice.
 6. Orthomolecular Therapy/Nutrition:
 - a. Completion of 300 hours of postgraduate training in orthomolecular therapy or nutrition approved by the Board; or
 - b. Documentation of a minimum of 3 or more years of clinical utilization and comprising a minimum of 50 percent of the applicant's practice.
 7. General or Combined Homeopathic Practice:
 - a. A combined total of 300 hours of postgraduate training in 1 or more of the modalities shown in subsection 1 through 6, including a minimum of 40 hours in classical homeopathy; or
 - b. Documentation of a minimum of 3 or more years of clinical utilization and comprising a minimum of 50 percent of the applicant's practice.
- C. Course work not previously approved by the Board will be evaluated according to the course content, qualifications of the instructors and the institution providing the course.

~~R4-38-104.~~ ~~Fees~~ Repealed

- ~~A. The fee for annual renewal of a license is five hundred and twenty-five dollars.~~
- ~~B. The fee for issuance of a duplicate license is twenty-five dollars.~~
- ~~C. The fee for a dispensing permit is two hundred dollars with annual renewal of such permit one hundred and fifty dollars.~~
- ~~D. The fee for a copy for minutes to all board meetings during the calendar year seventy-five dollars.~~
- ~~E. The fee for the sale of lists of physicians licensed by the Board, five cents per name for private use, twenty-five cents per name for commercial use.~~
- ~~F. The fee for copying records documents letters, minutes, applications, and files, twenty-five cents per page.~~
- ~~G. The fee for copying audio tapes, thirty-five dollars per tape.~~
- ~~H. The fee for the sale of computerized tapes or diskettes not requiring programming one hundred dollars.~~

R4-38-104. Approval of Preceptorships

- A.** An applicant who submits a preceptorship in lieu of a formal education program to obtain licensure as a homeopathic physician shall submit with the application the following documentation:
1. A sworn and notarized affidavit on the preceptor's letterhead from each preceptor attesting to:
 - a. The qualifications of the preceptor;
 - b. The dates during which the preceptorship was accomplished;
 - c. Each modality involved in the training;
 - d. The approximate number of hours the training included in each modality; and
 - e. The general nature of the services performed during the training.
 2. A summary from the applicant of each preceptorship including:
 - a. The name of each preceptor;
 - b. The dates of each preceptorship;
 - c. The modalities included in each preceptorship;
 - d. The number of hours credit claimed in each modality; and
 - e. The total number of hours claimed in lieu of formal education.

~~R4-38-105. Procedure for Conducting Licensing Examinations and Setting the Passing Grade Repealed~~

- A.** The examination for licensure shall be a written exam with a specified time limit. The Board shall administer a standardized examination or examinations covering items to be included in an approved formal post graduate course in homeopathic medicine as defined in R4-38-102.D.
- B.** The passing grade of the exam is 70%.

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- ~~C. Applicants shall bring a copy of Kent's Repertory for use as a reference during the examination. Applicants may use other repertories with clinically updated rubrics. In no case may other written material, notes or materia medica references be brought in or used during the examination.~~

R4-38-105. Fees

The Board may charge the following fees according to A.R.S. §§ 32-2914, 32-1916 and:

1. <u>Application for license:</u>	<u>\$ 300.00</u>
2. <u>Issuance of initial license:</u>	<u>\$ 250.00</u>
3. <u>Annual renewal of license:</u>	<u>\$ 625.00</u>
4. <u>Late renewal penalty:</u>	<u>\$ 200.00</u>
5. <u>Application for dispensing permit:</u>	<u>\$ 200.00</u>
6. <u>Annual renewal of permit:</u>	<u>\$ 150.00</u>
7. <u>Locum tenens registration application:</u>	<u>\$ 200.00</u>
8. <u>Locum tenens registration renewal:</u>	<u>\$ 100.00</u>
9. <u>Application for practical education course:</u>	<u>\$ 150.00</u>
10. <u>Annual renewal for practical education course:</u>	<u>\$ 50.00</u>
11. <u>Application for supervision (initial):</u>	<u>\$ 150.00</u>
12. <u>Triennial renewal of supervision:</u>	<u>\$ 50.00</u>
13. <u>Annual renewal for medical assistants:</u>	<u>\$ 150.00</u>
14. <u>Annual directory:</u>	<u>\$ 25.00</u>
15. <u>Copies, per page:</u>	<u>\$ 0.25</u>
16. <u>Copies per audio tape:</u>	<u>\$ 35.00</u>
17. <u>Copies, per 1.44 M computer disk:</u>	<u>\$ 100.00</u>
18. <u>Mailing lists - non-commercial (per name)</u>	<u>\$ 0.05</u>
19. <u>Mailing lists - commercial (per name)</u>	<u>\$ 0.25</u>
20. <u>Mailing list labels (per name)</u>	<u>\$ 0.30</u>
21. <u>Copy of Laws and Rules, each</u>	<u>\$ 5.00</u>

R4-38-106. Procedure for Conduct of Personal Interview Repealed

- ~~A. The personal interview conducted by the Board shall be conducted so as to acquaint the Board with the applicant's personal history, philosophy and approach to homeopathic medical practice. To this end the Board may require the applicant to review a clinical case history drawn from a file established by the Board for this purpose and present to the Board a summary of how the applicant would proceed with the clinical management of the sample case.~~
- ~~B. The Board shall ask any questions which will clarify to the satisfaction of the Board any issues regarding the applicant's practice record which may reflect on his or her competence to safely engage in the practice of medicine, clarify any questions of unprofessional conduct in the applicant's professional record, and clarify whether the scope of the applicant's homeopathic practice falls within the definition of A.R.S. Section 32-2901 A.4.~~

R4-38-106. Examinations

- A. The examination for license shall consist of three parts:
1. A timed written exam that includes questions the Board deems appropriate for the category of postgraduate homeopathic medicine listed in R4-38-103 and similar to those expected to be included in an approved postgraduate course in homeopathic medicine as specified in R4-38-103. The passing grade of the exam is 70%;
 2. An oral examination on 1 or more modalities based on a clinical case history drawn from real life. The applicant shall present to the Board a summary of the clinical management of the sample case; and
 3. A personal interview with the Board to examine the applicant's personal and professional history as it applies to homeopathic medicine. The Board shall ask any questions to clarify issues regarding the applicant's competence to safely engage in the practice of medicine, unprofessional conduct in the applicant's professional record, and whether the scope of the applicant's practice falls within the definition of homeopathic medicine.
- B. A copy of Kent's Repertory or other repertory with clinically updated rubrics may be used as a reference during the examination. Other written material or computers shall not be used during the examination.

R4-38-107. Waiver of Examination Repealed

- ~~A. No waiver may be issued without completion of a personal interview.~~
- ~~B. For applicants requesting waiver under A.R.S. Section 32-2912.C.1.a., Verification of competency, the Board will consider the nature of the applicant's previous three years of homeopathic practice and the nature of the treatment methodology (homeopathic modalities) used in that practice. The Board will, based on information obtained in the personal interview, determine if this constitutes a primarily homeopathic practice experience under the definitions of such practice in Arizona law.~~

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- ~~C. In cases where the applicant requests waiver under A.R.S. Section 32-2912.C.1.b., Recognition of homeopathic licensure, the Board will consider the nature of the examination and testing procedures used in the licensing jurisdiction as well as the information obtained in the personal interview in determining whether the applicant qualifies for a waiver.~~

R4-38-107. Waiver of Written Examination

A. The following applies to applicants requesting waiver under A.R.S. § 32-2913 (A).

1. No license shall be issued upon waiver of the written examination without completion of an oral examination and a personal interview.
2. At the Board's discretion, an oral examination and personal interview may be conducted by a telephone conference call with a majority of the Board present.

B. Based on the application, the oral examination and the personal interview, the Board shall determine if the applicant qualifies for a waiver.

R4-38-108. Notification of Address Repealed

~~Any licensee establishing a new office or changing his office address in the State of Arizona shall notify the Board in writing within 45 days of the opening of such new office and notify the Board within 45 days of any change in office or residence, and office or residence telephone number.~~

R4-38-108. Notification of Address Changes

A homeopathic physician shall advise the Board in writing within 45 days of a new office address, change in office address, change in home address, or change in telephone number.

R4-38-109. Experimental Forms of Diagnosis and Treatment

A. The Board neither approves nor advocates specific innovative therapies, ~~but The Board~~ recognizes the following standards for determining if a licensee ~~are is~~ is in compliance with A.R.S. Section § 32-2933(27). ~~Nothing in this Rule The Board shall not authorize therapies be interpreted to authorize activity~~ in violation of applicable Arizona federal statutes rules or regulations regarding drugs and devices.

B. ~~For the purposes of this Chapter, an experimental form~~ Experimental forms of diagnosis or treatment; ~~that are~~ subject to the restrictions ~~and public protections~~ of A.R.S. Section § 32-2933(27); ~~includes include:~~

1. Administration of a pharmaceutical agent untested for safety in humans;
2. The use of physical agents or electromagnetic currents or fields in a manner not supported by established clinical usage; and
3. Innovative therapy modalities and diagnostic methods that are not included in the definition practice of homeopathic practice medicine defined in A.R.S. Section § 32-2901.A. 32-2901(22) and that do not meet the criteria of Subsection C. subsection (C) below.

C. ~~For the purposes of this Chapter, the~~ The following are not considered to be an experimental forms of diagnosis or treatment:

1. A Substance substance or therapy modalities modality administered on a homeopathic indications that have has been in beneficial clinical usage by professionally trained, legally qualified physicians for at least ten years.
2. Homeopathic drugs listed in the Homeopathic Pharmacopoeia of the United States.
3. Homeopathic drug preparations which that have been characterized by toxicity studies, or by the "proving" method of administration to on healthy volunteers, to determine their the preparation's spectrum of action.
4. Administration of a pharmaceutical agents for therapeutic indication supported by clinical usage where such the agents have already has received approval to be marketed publicly for other therapeutic indications by the appropriate regulatory agency.
5. Procedures used for patient education, preventative medicine, general health assessment and enhancement such as BTA, LBA, soft laser, magnetic therapy, oxidative therapy, and microelectric therapy, and other procedures as determined by the Board.

D. ~~For the purposes of the Chapter, beneficial clinical usage by physicians of therapy modalities means that such beneficial usage is documented by national or international clinical reports of therapeutic results, or by professionally recognized publications of clinical indications and contraindications, or by organized national or international instructional courses offered in the use of the modality or treatment, or by presentation of physicians' experience with the therapy at national or international professional meetings.~~

R4-38-110. Generally Accepted Experimental Criteria Repealed

~~For the purposes of this Chapter, generally accepted experimental criteria in homeopathy means:~~

- ~~1. A protocol in which the treating modality is administered in the smallest amount necessary to stimulate a healing response with a minimum of clinical aggravation or "side effects."~~
- ~~2. Records for documentation of clinical efficacy which reflect measurement of symptom improvement, laboratory testing, and improvement in parameters of physiologic functioning.~~

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3. Innovative diagnostic procedures and devices are to be analyzed and evaluated according to their ability to assist the physician in assessing the degree of disturbance in the totality of the patient's presenting signs, symptoms and physiologic responses. The procedures and devices are also evaluated according to their ability to predict or monitor the totality of responses to a given therapeutic intervention or program.

R4-38-111. Peer Review

- A. ~~Licensees~~ A homeopathic physician who use using an experimental forms of diagnosis and treatment such as vaccine therapies for cancer, without affiliation with a recognized research institution, investigational review board, or peer review agency may request or the Board may require review of ~~the procedure in question~~ their procedures by the Board or a Board-appointed peer review committee.
- B. The ~~committee~~ review shall include ~~a review~~ examination of protocols, record keeping, ~~analysis~~ analyses of results, and informed consent forms and procedures. Based on the ~~peer review report~~, the Board shall determine the ~~licensee's~~ physicians' compliance with generally accepted homeopathic experimental criteria.
- C. Peer review for compliance with any form of experimental medicine shall occur at a minimum of 5-year intervals through an appropriate institutional review committee or a peer review committee, the chairperson of which shall be appointed by the Board president and approved by the Board.
- D. The Board may require the submittal of forms and protocols during an investigation or at any other time the Board deems appropriate.

R4-38-112. ~~Procedure for Registering Compliance of~~ Use of Experimental Forms of Diagnosis and Treatment

At the time of initial licensing and at subsequent annual renewal periods, a homeopathic physicians shall document the modalities of treatment used in ~~their~~ practice as well as any ~~experimental~~ forms of diagnosis and treatment ~~which~~ that have been defined as experimental by legislative action or Board action.

R4-38-113. ~~Protocol for~~ Chelation Therapy Practice Requirements

- A. ~~Physicians~~ A homeopathic physician engaging in chelation therapy for other than the treatment of metal poisoning as part of their homeopathic practice shall:
1. ~~document~~ Document ~~Post-graduate completion of the postgraduate education requirements equivalent to those established for eligibility for certification by the American Board of chelation Therapy required in R4-38-103(B)(2);~~
- B. ~~2. Physicians engaging in chelation therapy shall keep~~ Establish and maintain detailed records ~~for~~ on patients undergoing chelation therapy, ~~which shall include the following:~~
1. ~~Documentation of form and nature of pre-therapy counselling.~~
 2. ~~Diagnostic and pathologic categorization of patient's problem.~~
 3. ~~Documentation of pre-therapy testing including history and physical, subjective symptomatology, laboratory evaluations and consultation reports appropriate to the patient's pathologic diagnosis.~~
 4. ~~Evidence of periodic monitoring of therapy at an interval appropriate for the acuteness of patient's condition at a minimum of every nine treatments or every two months. Such monitoring includes physiologic measurements, complications of treatment, progress in symptoms and additional comments.~~
 5. ~~Post therapy testing including subjective evaluation, physiologic testing and laboratory results appropriate for the patient's complaint to be done at three, six and twelve months following treatment or during the course of treatment.~~
- C. ~~Periodic analysis of chelation therapy results shall occur at six-month intervals with at least the following analysis of results:~~
1. ~~Minimal improvement.~~
 2. ~~Marked improvement.~~
 3. ~~Worse.~~
 4. ~~Lost to follow-up.~~
 5. ~~Refused follow-up.~~
- D. ~~Peer review for compliance with the above protocol shall occur at a minimum of annual intervals through an appropriate institutional review committee or a peer review committee designated by the Board.~~

R4-38-114. Rehearing or Review of Decision

- A. Except as provided in subsection ~~G~~ (G), any party in a contested case before the board who is aggrieved by a decision rendered in such case may file with the board not later than ~~ten~~ 30 days after service of the decision, a written motion for rehearing or review of the decision, specifying the particular grounds therefore. A decision ~~shall be deemed to have been~~ is served when personally delivered or mailed by certified mail to the party at ~~his~~ the party's last known residence or place of business.
- B. A motion for rehearing under this ~~Rule~~ Section may be amended at any time before ~~it is ruled upon by a ruling by~~ the Board. ~~A response may be filed within ten days after service of such motion or amended motion by any other party~~ Any other party may file a response within fifteen days after service of such motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

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- C. A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the ~~agency Board~~, or it's the hearing officer, or the prevailing party, or any order or abuse of discretion, ~~whereby showing~~ the moving party was deprived of a fair hearing;
 2. Misconduct of the ~~board Board~~ or the prevailing party;
 3. Accident or surprise ~~which that~~ could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence ~~which that~~ with reasonable diligence could not ~~with reasonable diligence~~ have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
 7. ~~That the~~ The decision is not justified by the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in ~~Subsection C~~ subsection (C). An order granting a rehearing shall specify ~~with particularity~~ the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters ~~so specified~~.
- E. Not later than ~~ten~~ 30 days after a decision is rendered, the Board ~~may~~ on its own initiative may order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting ~~such~~ a rehearing shall specify the grounds ~~therefore~~.
- F. When a motion for rehearing is based upon an affidavits, ~~they it~~ shall be served with the motion. An opposing party, ~~may~~ within ~~ten~~ 10 days after ~~such~~ service, may serve an opposing affidavits, ~~which The Board may extend the period may be extended~~ for an additional period not exceeding 20 days ~~by the Board~~ for good cause shown or by written stipulation of the parties. A Reply ~~reply~~ affidavits may be permitted.
- G. ~~If in a particular decision~~ the Board makes specific findings that the immediate effectiveness of ~~such the~~ decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any ~~applicant~~ application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.
- H. ~~For purposes of this Section, the~~ The terms "contested case" and "party" as used in this Section are defined in A.R.S. Section 41-1001.

R4-38-115. Use of Title and Abbreviation

- A. The use of ~~abbreviations the abbreviation~~ "H.P." and "M.D.(H.)," with or without the periods, are is recognized as equivalent to the full written designation, "Homeopathic Physician" and "Doctor of Medicine (Homeopathic)".
- ~~B. Physicians practicing in Arizona under the auspices of the Homeopathic Board who are not also licensed by the Board of Medical Examiners or the Board of Osteopathic Examiners in Medicine and Surgery in this state, may only use the designation, "M.D." or "D.O." to indicate their educational training if such use of initials is uniformly accompanied by the full, written designation, "Homeopathic Physician".~~
- B. Homeopathic physicians practicing in this state but not licensed by the Arizona Board of Medical Examiners or the Arizona Board of Osteopathic Examiners in Medicine and Surgery shall only use the initials MD or DO to indicate a doctoral degree, which shall be followed by the full, written designation, "Homeopathic Physician."
- ~~C. Physicians practicing under dual licensure between either the Allopathic or the Osteopathic Board and the Homeopathic Board shall use either the designation "Homeopathic Physician", "Doctor of Medicine (Homeopathic)", or one of the two approved abbreviation terms in all professional capacities, along with the appropriate "M.D." or "D.O." designation.~~
- C. Physicians licensed by this Board and any state the Arizona Board of Medical Examiners or this Board and any state the Arizona Board of Osteopathic Examiners in Medicine and Surgery shall use one of the following designations as appropriate with or without periods:
1. MD, MD(H) or DO, MD(H);
 2. MD, Homeopathic Physician or DO, Homeopathic Physician; or
 3. MD, Doctor of Medicine (Homeopathic) or DO, Doctor of Medicine (Homeopathic).
- D. ~~All A physicians physician~~ practicing in Arizona who has received a homeopathic license certificate under a license by the Arizona Board of Homeopathic Medical Examiners shall display post the license, or an official duplicate license, in a visible conspicuous location in the reception area of each office facility, a sign which states, "Dr. is licensed by the Arizona Board of Homeopathic Medical Examiners". Such sign shall be a minimum of four inches by six inches in size, and it may also state any additional licensures or certifications under which the Homeopathic Physician is practicing.
- ~~E. Deadline for compliance shall be six months after the effective date of this rule.~~

NOTICE OF PROPOSED RULEMAKING

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION - SECURITIES

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R14-4-114 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 44-1821 and 44-1844

Implementing statute: A.R.S. § 44-1844

Constitutional authority: Arizona Constitution Article XV §§ 6 and 13
- 3. A list of all previous notices appearing in the Register:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 4273, November 13, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Sharleen A. Day Associate General Counsel
Address:	Arizona Corporation Commission Securities Division 1300 West Washington, Third Floor Phoenix, Arizona 85007-2996
Telephone:	(602) 542-4242
Fax:	(602) 594-7421
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Arizona Corporation Commission (Commission) proposes to amend Section R14-4-114 (rule 114) to specify the recognized manuals of securities for purposes of the exemption in A.R.S. § 44-1844(A)(11). A.R.S. § 44-1844(A)(11) exempts from registration requirements a transaction in securities listed in a recognized manual of securities designated by the Commission by rule or order. Rule 114 designates those manuals of securities recognized by the Commission for purposes of the exemption. The Commission proposes to amend rule 114 to reflect the name changes in many of the manuals from Moody's to Mergent's, and to eliminate reference to manuals that are no longer in print. The Notice of Rulemaking Docket Opening included rule 114 and rule 115. This Notice of Proposed Rulemaking applies only to rule 114. The Commission is pursuing a separate rulemaking package for rule 115.
- 6. Reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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8. The preliminary summary of the economic, small business, and consumer impact:

The economic, small business, and consumer impact statement for rule 114 analyzes the costs, savings, and benefits that accrue to the Commission, the office of the attorney general, the regulated public, and the general public. With the adoption of the proposed rule, the impact on established Commission procedures, Commission staff time, and other administrative costs doesn't change. The estimated additional cost to the office of the attorney general doesn't change. The benefits provided by rule 114 are nonquantifiable. Rule 114 should benefit the Commission's relations with the regulated public because of specified exemption standards. The public will benefit from the continuation of certain standards for exemptions. The Commission anticipates that the proposed rulemaking will not increase monitoring, record keeping, or reporting burdens on businesses or persons. The costs of implementation or enforcement are not increased or are only marginally increased. Please provide comment regarding the accuracy of this summary to the individual named in item #4 of this notice.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Not applicable

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: May 2, 2001

Time: 10:00 a.m.

Location: Arizona Corporation Commission
1200 West Washington Avenue
Phoenix, Arizona 85007

Nature: Oral proceeding. Subsequent to the oral proceeding, the Arizona Corporation Commission will take final action at an open meeting with respect to the making of the proposed rule.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rule follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION - SECURITIES

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

Section

R14-4-114. ~~Listing of certain publications as constituting~~ Recognized ~~recognized~~ manuals of securities, ~~as used in~~
A.R.S. § 44-1844(A)(11)

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

R14-4-114. ~~Listing of certain publications constituting~~ Recognized ~~recognized~~ manuals of securities, ~~as used in~~
A.R.S. § 44-1844(A)(11)

A. For purposes of A.R.S. § 44-1844(A)(11), each ~~Each~~ of the following publications is approved by the Commission as a recognized manual of securities, ~~within the meaning of that term as used in A.R.S. § 44-1844(A)(11):~~

1. ~~Mergent's~~ Moody's Industrial Manual,;
2. ~~Mergent's~~ Moody's Municipal and Government Manual,;
3. ~~Mergent's~~ Moody's Transportation Manual,;
4. ~~Mergent's~~ Moody's Public Utility Manual,;
5. ~~Mergent's~~ Moody's Bank and ~~Finance~~ Financing Manual,;
6. Standard & Poor's Corporation Records,;
7. ~~Walker's Manual of Western Corporations.~~

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- B.** A “publication” for purposes of this Section includes electronic publication formats that are as readily available to the general public as the printed version, including CD-ROM and electronic dissemination over the Internet.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION - HIGHWAYS DIVISION

PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
R17-3-401	Repeal
R17-3-404	Repeal
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 28-366

Implementing statutes: A.R.S. §§ 28-7045
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 1261, March 16, 2001
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Wendy S. LeStarge Rules Analyst
Address:	Arizona Department of Transportation Administrative Rules Unit, Mail Drop 507M 3737 North Seventh Street, Suite 160 Phoenix, Arizona 85014-5017
Telephone:	(602) 712-6007
Fax:	(602) 241-1624
E-mail:	wlestarge@dot.state.az.us
- 5. An explanation of the rule, including the agency’s reasons for initiating the rule:**

This rulemaking deals with weight restrictions on State Highway 67 and State Highway 260. The agency seeks to repeal these rules since the weight restrictions are no longer necessary due to reengineering of the state highways. This rulemaking arises from proposed agency action in the 5-year review report approved by the Governor’s Regulatory Council on May 2, 2000 (F-00-0402).
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**

The Department claims exemption under A.R.S. § 41-1055(D). The only foreseen economic impact of repealing R17-3-401 and R17-3-404 is clerical costs in formal rulemaking. Repeal of these unnecessary rules decreases agency monitoring and enforcing burdens required of effective administrative rules.

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9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Wendy S. LeStarge
Rules Analyst

Address: Arizona Department of Transportation
Administrative Rules Unit, Mail Drop 507M
3737 North Seventh Street, Suite 160
Phoenix, Arizona 85014-5017

Telephone: (602) 712-6007

Fax: (602) 241-1624

E-mail: wlestarge@dot.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No oral proceeding is scheduled for this rulemaking. Written, faxed, e-mail comments, or requests for an oral proceeding may be made by contacting the officer listed in item #4 between 8:00 a.m. and 4:30 p.m., Monday through Friday. If no oral proceeding is requested, the public comment period shall continue for 30 days from this notice's publication date. This rulemaking's public record will close at 4:30 p.m. on April 23, 2001.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION - HIGHWAYS DIVISION

ARTICLE 4. HIGHWAY LIMITATIONS (WEIGHT RESTRICTIONS AND TRAFFIC CONTROLS)

Section

R17-3-401. ~~Weight restrictions on State Highway 67~~ Repealed
R17-3-404. ~~Weight restrictions on State Highway 260~~ Repealed

ARTICLE 4. HIGHWAY LIMITATIONS (WEIGHT RESTRICTIONS AND TRAFFIC CONTROLS)

R17-3-401. ~~Weight restrictions on State Highway 67~~ Repealed

- ~~A.~~** A maximum gross weight restriction of 20,000 pounds (10 tons) is imposed on that portion of State Highway 67 between Jacobs Lake to the Park Boundary, being more particularly described as follows:
- ~~1.~~ Beginning on State Route 67 from Milepost 579.36 at Jacobs Lake to the Park Boundary at Milepost 610.26 for the period November 15 until May 15 of each year.
- ~~B.~~** A maximum gross weight restriction of 14,000 pounds per axle is imposed on that portion of State Highway 67 between Jacobs Lake to the Park Boundary, being more particularly described as follows:
- ~~1.~~ Beginning on State Route 67 from Milepost 579.36 at Jacobs Lake to the Park Boundary at Milepost 610.26 for the period May 15 to June 15 of each year.

R17-3-404. ~~Weight restrictions on State Highway 260~~ Repealed

- ~~A.~~** The Director of the state Department of Transportation pursuant to A.R.S. § 28-1012(D) is authorized to impose restrictions as to the weight of vehicles operated upon any highway under the jurisdiction of the state Department of Transportation.
- ~~1.~~ By virtue of said statutory provision, the Director of the state Department of Transportation recommends that such restriction be imposed on the following state route to assure against damage to the roadway which could lead to total disintegration of the roadway:
- ~~B.~~** In the interest of public necessity, safety, and convenience, the Director of the state Department of Transportation recommends that a maximum gross weight restriction be imposed on State Highway 260, on a portion between Christopher Creek and Young Road, being more particularly described as follows:

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- ~~1. Beginning on State Route 260 from Milepost 274.0 to Milepost 284.3 a vehicle maximum gross weight restriction of 20,000 pounds (10 tons) be established, effective March 31, 1983, with a greater limit being established as further engineering studies warrant, until the legal limit is again established.~~
- ~~2. These weight limit restrictions will become effective with the posting of appropriate signs on said section of highway.~~
- ~~3. The Arizona Department of Transportation, Highways Division, is authorized and directed to post appropriate signs of said restriction.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION

PREAMBLE

- 1. Sections Affected**

R17-5-205	Repeal
R17-4-205	New Section
R17-4-207	Repeal
R17-4-207	New Section
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 28-366

Implementing statutes: A.R.S. §§ 28-2051 and 28-2157
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 3479, September 8, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	George R. Pavia Department Rules Supervisor
Address:	Arizona Department of Transportation Administrative Rules Unit, Mail Drop 507M 3737 North Seventh Street, Suite 160 Phoenix, Arizona 85014-5017
Telephone:	(602) 712-8446
Cellular:	(602) 403-3341
Fax:	(602) 241-1624
E-mail:	gpavia@dot.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking action will update rule language to conform to current understandability, clarity, and conciseness requirements. The revision will also seek to substantially simplify the rule by elimination of language unnecessary to the rules according to current program usage. This rulemaking results from the 5-year review report (F-98-0401) approved by the Governor's Regulatory Review Council on May 5, 1998.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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8. The preliminary summary of the economic, small business, and consumer impact:

The agency imposes no direct cost on any entity with these rules. Vehicle-owning businesses and consumers do benefit with the assurance of legal vehicle ownership and right of survivorship. MVD-contracted competitive government 3rd party entities are issued gratis materials to perform functions required under these rules. In turn, 3rd parties profit from undisclosed, non-reportable service fees. MVD hearings subdivision has a theoretical reduction in vehicle ownership contest cases. The Division recoups its costs through annual title and registration fees collected statewide.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Questions concerning the economic impact statement in this rulemaking may directed to the officer listed in item #4.

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The agency has not scheduled a public hearing in this rulemaking. If desired, an interested party may make a request for a public hearing by notifying the agency officer listed in item #4. If the agency receives no hearing request, the public record in this rulemaking will close at 4:30 p.m. on Monday, April 23, 2001.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION

ARTICLE 2. TITLES AND REGISTRATION

Section

R17-4-205. Application for Arizona Certificate of Title and Registration Repealed

R17-4-205. Certificate of Title and Registration Application

R17-4-207. Vehicle titles—joint ownership rules Repealed

R17-4-207. Co-Ownership and Vehicle Title

ARTICLE 2. TITLES AND REGISTRATION

R17-4-205. Application for Arizona Certificate of Title and Registration Repealed

A. The application for Arizona Certificate of Title and Registration shall contain space for the following:

1. ~~Vehicle information—title number, license number, tab number and year of tab number, tab expiration date, the month and year first registered, make, year, body style, model, status, list price, gross vehicle weight, fuel type, Motor Vehicle Division Tax Account Number, Division index number, vehicle identification number, odometer reading, previous title number, state of previous title, previous title date, whether the vehicle was acquired new or used, name and address of person from whom procured, whether vehicle will be rented without a driver and whether the vehicle is specially constructed or reconstructed.~~
2. ~~Applicant information—first, middle and last name, legal status of ownership, date of birth, driver's license or federal identification number, current street address, city, county, state, zip code number, and whether applicant's registration rights are under suspension.~~
3. ~~Lienholder information—name and address of all lienholders, amount of each lien and date of each lien.~~
4. ~~Mobile home information—name of mobile home manufacturer, site of physical location of mobile home.~~
5. ~~Motor Vehicle Division information—information needed for in-house agency use.~~
6. ~~Joint tenancy information—whether the applicants intend to hold the title as joint tenants with rights of survivorship.~~
7. ~~Duplicate title information—whether the original title was lost, destroyed, mutilated or has become illegible and certifying that the title has not been assigned or surrendered.~~
8. ~~Certification—applicant certification that applicant is the owner of the vehicle, has listed all liens and encumbrances and acknowledges the odometer reading as qualified by the seller and has met mandatory insurance requirements.~~
9. ~~Signature and verification—signatures of applicants and a notary public or Motor Vehicle Division agent.~~
10. ~~Joint ownership instructions—printed information defining joint ownership conditions shown by “or” —“and” —“and/or”.~~

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11. Odometer — printed information explaining odometer reading codes.
- B.** ~~Except as provided for in subsection (C), no Application for Arizona Certificate of Title and Registration will be processed and no certificate of title or registration will be issued unless all information required on the application has been provided by the applicant.~~
- C.** ~~The applicant may provide the following information on a voluntary basis:~~
1. ~~Applicant's date of birth.~~
 2. ~~Applicant's driver's license number.~~
 3. ~~Applicant's federal employer identification number, if the applicant is an organization taking title as a sole proprietor partnership, corporation or other legal entity.~~

R17-4-205. Certificate of Title and Registration Application

- A.** In addition to the requirements of A.R.S. §§ 28-2051 and 28-2157, a person applying for an Arizona motor vehicle title certificate and registration shall complete a form supplied by the Motor Vehicle Division that contains the following information:
1. Vehicle information:
 - a. Tab number;
 - b. Initial registration month and year;
 - c. Vehicle make, model, year, and body style;
 - d. A checkbox indication of vehicle mechanical or structural status as:
 - i. Dismantled;
 - ii. Reconstructed;
 - iii. Salvaged; or
 - iv. Specially constructed;
 - e. Gross vehicle weight;
 - f. Fuel type;
 - g. Odometer information;
 - h. Current title number and titling state.
 2. An owner's or lessee's legal ownership status.
 3. Lienholder information:
 - a. Lienholder names and addresses, and
 - b. Lien amount and date incurred.
 4. If a mobile home, the physical site.
 5. Co-ownership information:
 - a. A statement of whether any survivorship rights in the vehicle exist; and
 - b. A statement providing co-ownership legal status instructions as prescribed in A.A.C. R17-4-207 (B).
 6. Owner certification information verifying:
 - a. Ownership.
 - b. Inclusion of all liens and encumbrances, and
 - c. Seller-verified odometer reading.
 7. Applicant signatures.
 8. An acknowledgement of:
 - a. A commercial mailing list release; and
 - b. A printed explanation of odometer reading codes.
 9. Other information as required by the Division for internal processing and records keeping.
- B.** An applicant may voluntarily provide the following information on the form:
1. Applicant's birth date;
 2. Applicant's driver license number; and
 3. Applicant's federal employer identification number, if the applicant is taking title as a sole proprietor partnership, corporation, or other legal entity.

R17-4-207. Vehicle titles — joint ownership rules Repealed

~~Rules prescribing method of indicating type of ownership to a motor vehicle.~~

1. ~~The Motor Vehicle Division receives application for certificates of title to vehicles with the ownership being in more than one name, and~~
2. ~~The application and title form do not have sufficient space on which may be indicated at length the nature of the tenancy, and~~
3. ~~It is desirable that there be a uniform and brief method of indicating on the certificate the nature of the tenancy.~~
4. ~~That when the ownership of a vehicle is to be in more than one name, the application for the certificate of title must indicate in the owner's name section the nature of the tenancy by use of one of the three methods given below.~~

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5. That the vehicle division will transfer the ownership of a vehicle or encumber the same when there is more than one owner, only upon compliance with the requirements set forth below in connection with the method under which the title has been issued:
- a. Where ownership is a joint tenancy with right of survivorship, the owner's name on the title shall be shown as follows:
John Doe and/or Joe Roe
To transfer ownership of the vehicle or to encumber the vehicle, signatures of the two parties will be required if both are living. Upon satisfactory proof of the death of either party, the living party may transfer ownership of the vehicle by his or her signature alone.
 - b. Where ownership is a tenancy in common, the owner's name on the title shall be shown as follows:
John Doe and Joe Roe
To transfer ownership of the vehicle or to encumber the vehicle, signature of the two parties will be required. In the event of the death of either party the interest of the deceased party must be handled through probate proceedings.
 - c. Where the ownership is a joint tenancy, with an expressed intent that either of the owners have full authority to transfer ownership of the vehicle or to encumber the same, the owner's name on the title will be shown as follows:
John Doe or Joe Roe
As a condition of issuing a title showing the ownership as just indicated above, the two owners will be required to sign a form to be furnished by the department, such document to authorize their party to transfer or encumber the vehicle by his or her signature alone.

R17-4-207. Co-Ownership and Vehicle Title

- A.** In this Section, unless the context otherwise requires:
- 1. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
 - 2. "Encumbrance" means an obligation stated as a lien on a vehicle title that is released upon payment or cancellation of the obligation.
 - 3. "Joint tenancy with right of survivorship" means ownership by 2 or more people with a surviving joint tenant's right to become sole owner.
 - 4. "Tenancy in common" means vehicle ownership by 2 or more people without the right of survivorship.
- B.** A title certificate application shall specify the form of co-ownership and names of a vehicle's co-owners as follows.
- 1. If co-ownership is a joint tenancy with right of survivorship in which all owners must sign to transfer or encumber the vehicle, the applicant shall provide the name of each owner separated by "and/or".
 - 2. If co-ownership is a joint tenancy that allows 1 owner may sign to transfer or encumber the vehicle title, the applicant shall provide:
 - a. The name of each co-owner separated by "or", and
 - b. A form, signed by each co-owner authorizing title transfer or encumbrance on the signature of any co-owner.
 - 3. If co-ownership is a tenancy in common, the applicant shall provide the name of each owner separated by "and".
- C.** Before a surviving joint tenant under Subsection (B)(1) obtains a title certificate as sole owner or transfers or encumbers the vehicle title, the surviving joint tenant shall present to the Division a death certificate for each deceased joint tenant.
- D.** After the death of a tenant in common, the Division shall issue a new title certificate only as directed by:
- 1. A certified probate court order, or
 - 2. A successor's affidavit under A.R.S. § 14-3971 (B).